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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 1, 22, and 52**

**[FAC 2005-91; FAR Case 2015-036; Item II; Docket No. 2015-0036, Sequence No. 1]**

**RIN 9000-AN14**

**Federal Acquisition Regulation; Updating Federal Contractor Reporting of Veterans' Employment**

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are adopting as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to implement a final rule issued by the Department of Labor's (DOL) Veterans' Employment and Training Service (VETS) that replaced the VETS-100 and VETS-100A Federal Contractor Veterans' Employment Report forms with the VETS-4212, Federal Contractor Veterans' Employment Report form.

**DATES:** Effective: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**FOR FURTHER INFORMATION CONTACT:** Ms. Zenaida Delgado, Procurement Analyst, at 202-969-7207 for clarification of content. For information pertaining to status or

publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2005-91, FAR Case 2015-036.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

DoD, GSA, and NASA published an interim rule in the Federal Register at 80 FR 75908 on December 4, 2015, to implement a final rule issued by VETS of the DOL that was published in the Federal Register at 79 FR 57463 on September 25, 2014. The VETS of DOL rule rescinded the regulations at 41 CFR part 61-250 and revised the regulations at 41 CFR part 61-300, which implemented the reporting requirements under the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA), as amended and the Jobs for Veterans Act (JVA) (Pub. L. 107-288). VEVRAA requires Federal contractors and subcontractors to annually report on the total number of their employees who belong to the categories of veterans protected under VEVRAA, as amended by the JVA, and the total number of those protected veterans who were hired during the period covered by the report. No public comments were submitted on the interim rule.

### **II. Discussion and Analysis**

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) did not

receive any comments on the interim rule; accordingly the Councils are finalizing the interim rule without change.

### **III. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### **IV. Regulatory Flexibility Act**

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The FRFA is summarized as follows:

This rule is issued to adopt as final, without change, an interim rule published in the Federal Register at 80 FR 75908 on December 4, 2015, implementing changes to 41 CFR 61-250 and 61-300 which was published in the Federal Register at 79 FR 57463 on September 25, 2014, by the Veterans' Employment and Training Service (VETS) of the Department of Labor (DOL). The objective of the VETS rule is to revise the current regulations implementing 38 U.S.C.

4212. The VETS rule rescinded obsolete regulations at 41 CFR 61-250, changed the manner in which Federal Contractors report veterans' employment data, updated terminology, and revised the annual report, the report name, and methods of filing the report.

No public comments were submitted in response to the initial regulatory flexibility analysis or the interim rule.

VETS used data in the VETS-100/100A Reporting System regarding reports on veterans' employment filed in 2012 to estimate the number of small entities that would be subject to its rule. The VETS rule applies to any industry represented by a Federal contractor with a contract of \$150,000 or more. Therefore, VETS used the Small Business Administration's "fewer than 500 employees" limit when making an across-the-board size standard classification for estimating purposes. VETS estimated that 15,000 Federal contractors will be subject to the reporting requirements of the rule and of that, VETS approximated that the number of small entities that would be subject to the rule would be 8,000 (approximately 53 percent of the total Federal contractors impacted by the rule).

This FAR rule does not add any new reporting, recordkeeping, or other compliance burdens. The FAR rule makes contracting officers and contractors aware of the VETS reporting requirements.

DoD, GSA, and NASA are not aware of any significant alternatives to the rule which would accomplish the stated objectives of implementing the VETS final rule, while minimizing impact on small entities. DoD, GSA, and NASA do not have the flexibility of making any changes to the VETS rule, which has already been published for public comment and has taken effect as a final rule. There is no significant impact on small entities imposed by the FAR rule.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

## **V. Paperwork Reduction Act**

The Paperwork Reduction Act (44 U.S.C chapter 35) applies. The rule contains information collection

requirements that are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

However, the applicable information collections are derived from the requirements of the 41 CFR part 61-300 regulations implementing the reporting requirements under VEVRAA; see detailed discussion in DOL's rule under the Paperwork Reduction Act section which was published in the Federal Register at 79 FR 57463 on September 25, 2014. OMB assigned OMB Control Numbers 1250-0004, OFCCP Recordkeeping and Reporting Requirements, 38 U.S.C. 4212, Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and 1293-0005, Federal Contractor Veterans' Employment Report.

**List of Subjects in 48 CFR Parts 1, 22, and 52**

Government procurement.

Dated: September 19, 2016.

William F. Clark,  
Director,  
Office of Government-wide  
Acquisition Policy,  
Office of Acquisition Policy,  
Office of Government-wide Policy.

### **Interim Rule Adopted as Final Without Change**

Accordingly, the interim rule amending 48 CFR parts 1, 22, and 52, which was published in the Federal Register at 80 FR 75908 on December 4, 2015, is adopted as a final rule without change.

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